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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,050	09/10/2003	Howard W. DeMoore	4040-07600	7301
30652	7590	09/27/2005	EXAMINER	
CONLEY ROSE, P.C. 5700 GRANITE PARKWAY, SUITE 330 PLANO, TX 75024			MUROMOTO JR, ROBERT H	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,050

Applicant(s)

DEMOORE ET AL.

Examiner

Robert H. Muromoto, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In both claims, the recitation "the free side of the selvage" has no clear antecedent basis.

Claim 7 is also in direct contradiction with claim 1. How can the selvage warp density be twice the first warp thread density, when it has already been limited to be "no greater than the first warp thread density" in claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Luber US patent 4,143,679.

Claims 1-3 and 7 are considered product-by-process claims due the recitation, "fabric woven on a shuttleless loom..."

"The lack of physical description in a product-by-process claim makes determination of the patentability of the claim more difficult, since in spite of the fact that the claim may recite only process limitations, it is the patentability of the product claimed and not of the recited process steps

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which must be established. We are therefore of the opinion that when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claimed in a product-by-process claim, a rejection based alternatively on either section 102 or section 103 of the statute is eminently fair and acceptable. As a practical matter, the Patent Office is not equipped to manufacture products by the myriad of processes put before it and then obtain prior art products and make physical comparisons therewith." In re Brown, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972)."

The instant specification clearly states that the use of a printing press transfer cylinder having hook and loop fastener strips for attaching a jacket covering to the transfer cylinder is well known practice in the art.

'679 clearly discloses a woven fabric using known picking techniques that includes a selvage area having tucked ends and a warp density no greater than the first warp thread density.

'679 discloses the selvage having half the warp thread density of the first warp thread density, (claims 1-3, 17, 19). The limitations of claim 7 fall into this rejection as they are rejected above for 112, 2nd paragraph reasons.

In view of the similarities between the claimed fabric, and that of the prior art of '679, it is reasonable to believe that the product made by the prior art process would be either identical to or only slightly different from the claimed product. In such a situation, the burden of proof shifts to applicant to prove that the claimed product is materially different.

The cutting step in claim 6 and 17 is inherent to '679, as '679 states that the fabric is cut at the selvage.

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Claim 18 does not limit the method for making a jacket covering. Rather it recites subsequent use of the jacket covering after woven and cut as recited in claim 17. This claim falls in with this rejection, as it does not further limit the invention.

Claims 8-11, 16, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 6,244,178.

Claims 8-11 and 16 are considered product-by-process claims due the recitation, "fabric woven on a shuttleless loom..."

"The lack of physical description in a product-by-process claim makes determination of the patentability of the claim more difficult, since in spite of the fact that the claim may recite only process limitations, it is the patentability of the product claimed and not of the recited process steps which must be established. We are therefore of the opinion that when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claimed in a product-by-process claim, a rejection based alternatively on either section 102 or section 103 of the statute is eminently fair and acceptable. As a practical matter, the Patent Office is not equipped to manufacture products by the myriad of processes put before it and then obtain prior art products and make physical comparisons therewith." In re Brown, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972)."

The instant specification clearly states that the use of a printing press transfer cylinder cut from a woven fabric having hook and loop fastener strips for attaching a jacket covering to the transfer cylinder is well known practice in the art.

'178 discloses a printing press cylinder jacket covering fabric that is woven having a weave of 32 warp X 28 weft (col. 9, lines 54-55), i.e. a density of 896 thread crossings per square inch, therefore having a density less than recited in claims 8-11.

In view of the similarities between the claimed fabric, and that of the prior art of '178,

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it is reasonable to believe that the product made by the prior art process would be either identical to or only slightly different from the claimed product. In such a situation, the burden of proof shifts to applicant to prove that the claimed product is materially different.

Claim 21 does not limit the method for making a jacket covering. Rather it recites subsequent use of the jacket covering after woven and cut as recited in claim 17. This claim falls in with this rejection, as it does not further limit the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over '679.

Although '679 teaches all of the limitations of the claims above, '679 does not teach the specific warp densities recited in claims 4 and 5. However, absent any criticality or unexpected results arising from these warp densities it would have been obvious to one of ordinary skill in the art to determine the optimum warp densities for a given application through routine experimentation.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over '178 in view of '679.

Although '178 teaches all the limitations of the claims listed above, '178 does not teach the selvage density being less than the first warp section or the specific selvage warp densities recited in claims 12-15.

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However, '679 does teach a woven fabric having lower selvage warp density than the warp density of the fabric to prevent unraveling at the edges.

With respect to the specific selvage warp densities recited in claims 12-15, they are all less than the warp density of the body of the '178 fabric. As far as the specific recited values, absent any criticality or unexpected results arising from these chosen variables, it would have been obvious for one of ordinary skill in the art to determine the optimum selvage warp density for a given application through routine experimentation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Muromoto, Jr. whose telephone number is 571-272-4991. The examiner can normally be reached on 8-530, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bhm
September 13, 2005


JOHN J. CALVERT
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